

REMARKS

Reconsideration of the above-identified patent application is respectfully requested.

Claims 1-63 are pending in this application. The Examiner rejected claims 1-63 under 35 U.S.C. §102(e). The Examiner relied upon Joao U.S. Patent 6,283,761 (hereinafter Joao) to support this rejection. The Examiner rejected claim 1 under 35 U.S.C. §102(e). The Examiner relied upon Teshima U.S. Patent 6,272,470, referred to by the Examiner as "Fumiaki" but referred to herein as Teshima, to support this rejection. Claim 1 has been amended.

§102(e) Rejection - Joao

Claim 1 has been amended to recite ". . . the second healthcare provider submitting a consultation on a machine via the internet, wherein . . . submitting a consultation includes the second healthcare provider's assessment and/or diagnosis based on the consult data." That is, the consultation submitted by the second healthcare provider is based on the consult data supplied by the first healthcare provider. Joao fails to disclose or suggest the method of amended claim 1. This is because Joao is not directed to healthcare provider-to-healthcare provider consultations. Rather, Joao is directed to a computer system wherein a database (i.e., database 10H) is used to cross-reference patient symptoms to a predetermined diagnosis and treatment. For example, Joao teaches that:

The database 10H also contains information correlating symptoms and/or conditions with diagnoses, prognoses, and/or treatments, treatment methods, procedures, etc. The database 10H also contains any and/or all information needed and/or desired for facilitating the processing of symptoms, conditions, medical histories, family histories, and other information, in order to arrive at diagnoses and/or prognoses, treatments, prescriptions, procedures and/or any other healthcare and/or healthcare-related information. (Col. 19, ll. 12-20).

and

The central processing computer 10 will, at step 705 receive and process the patient symptoms, if any, and/or examination findings, in conjunction with the patient's medical history and/or other information, medical theories, principles, criteria and/or other medical information needed to make a diagnosis. At step 705, the central processing computer 10 will perform a comprehensive diagnostic evaluation of the patient's symptoms, if any, and/or the examination findings.

At step 706, the central processing computer will generate a diagnostic report which can include a diagnosis of the patient's condition, if needed. (Col. 25, ll. 30-41).

Accordingly, Joao teaches a computer system configured to receive patient symptoms from a doctor and determine a diagnosis for the symptoms based on the data contained in the database 10H. As such, the diagnosis disclosed in Joao is not provided by "a second healthcare provider," as required by Applicants' claims, but rather by a computer system.

Further, the diagnosis disclosed in Joao is not "based on the consult data" submitted by the first healthcare provider. Although the database 10H may include data obtained from a second doctor, *such data is collected prior to receiving the patient symptoms from the first doctor*. That is, the data collected from the second doctor and/or other sources (see Joao, col. 19, ll. 54-59) must be collected and stored in the database 10H *before the computer system can use such data to determine a diagnosis*. As such, the data provided by the second doctor simply cannot be based on the particular patient symptoms provided by the first doctor because the second doctor provides such data before the first doctor submits the patient symptoms. Accordingly, the diagnosis determined by the computer system of Joao is not a "second healthcare provider's assessment and/or diagnosis based on the consult data" as claimed in amended claim 1. Therefore, Joao fails to disclose or suggest the method of amended claim 1.

§102(e) Rejection - Teshima

The Examiner also rejected claim 1 as being anticipated by Teshima. Again, claim 1 has been amended to recite ". . . the second healthcare provider submitting a consultation on a machine via the internet, wherein . . . submitting a consultation includes the second healthcare provider's assessment and/or diagnosis based on the consult data." Teshima fails to disclose or suggest such a method. Teshima is directed to the recording and storing of patient consultations (i.e., doctor-to-patient consultations). Teshima is not directed to healthcare provider-to-healthcare provider consultations. As such, Teshima fails to disclose or show the method of amended claim 1.

For at least the reasons provided above, Applicants believe that claim 1 is in condition for allowance. Because claims 2-63 depend directly or indirectly from claim 1, these claims are also

believed to be in condition for allowance. Accordingly, allowance of claims 1-63 is respectfully requested.

It is respectfully requested that this paper be considered as a petition for a one-month extension of time extending the deadline of this response to March 20, 2007. The Commissioner is authorized to charge the fee of \$60.00 for this one-month extension of time, and any shortages or overpayments of fees, to our undersigned counsel's deposit account 10-0435 with reference to file 5489-69021.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Richard D. Conard', written over a horizontal line.

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